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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,124	08/20/2003	Daniel N. Harres	BING-I-1026	6523
46020	7590	07/13/2005	EXAMINER	
BLACK LOWE & GRAHAM PLLC 701 FIFTH AVENUE, SUITE 4800 SEATTLE, WA 98104			PALMER, PHAN T H	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/644,124

Applicant(s)

HARRES, DANIEL N.

Examiner

PHAN T.H. PALMER

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 24-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,7,12,15,18,20,21,37,40 and 42 is/are rejected.
- 7) ☐ Claim(s) 2,3,5,8-11,13,14,16,17,19,22,23,38,39,41 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*Phan T.H. Palmer*  
PHAN T. H. PALMER  
PRIMARY EXAMINER  
07/08/2005

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/22/2003.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 24-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05/27/2005.

Applicant's cooperation is requested in correcting any error of which applicant may become aware in the specification.

***Information Disclosure Statement***

2. The information disclosure statement submitted on 12/22/2003, has been considered by the examiner and made of record. See attached form PTO-1449.

***Drawings***

3. This application has been filed with formal drawings.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6-7, 12, 15, 18, 20-21, 37, 40, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al. (5,532,864).

The Alexander et al. discloses in figures 1 and 6, an optical monitoring channel comprising: a wavelength division multiplexed optical communication system which includes an optical monitoring channel which is capable of surviving the failure of an optical amplifier. The optical monitoring signal wavelength is selected to be greater than the longest wavelength of the first gain wavelength band such that the optical monitoring signal is not substantially attenuated by an unpumped optical amplifier.

With regard to claims 1, 12, and 37, the Alexander et al reference discloses all the claimed invention: an optical component, comprising:

- a signal source adapted to output a first combined optical signal (multiplexed optical signal) having a first optical signal portion of a first frequency and a second optical signal portion of a second frequency, the first frequency being substantially greater than the second frequency; and

- a controller operatively coupled to the signal source and being adapted to induce the signal source to output (transmitter) the first and second optical signal portions, the first optical signal portion being associated with a main communication function and the second optical signal portion being associated with a monitoring function. (see abstract).

With regard to claims 4, 18, and 40, wherein the signal source includes a laser diode is disclosed in the Alexander et al reference.

With regard to claims 6-7, 15, 20-21, and 42, further comprising a monitoring component operatively that drives the signal source is disclosed in the Alexander et al reference, see figures 1-6.

***Allowable Subject Matter***

5. Claims 2-3, 5, 8-11, 13-14, 16-17, 19, 22-23, 38-39, 41, and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Alexander et al reference does not disclose the limitations of above claims. The limitations of these reference is significant important, since the apparatus and methods for improved fiber optic system, specially, to fiber optic links having a built-in test. The apparatus and method has an advantage to provide an improved monitoring and fault isolation capabilities, and improved fiber optic system performance, in comparison with the convention system.

**CONTACT INFORMATION**

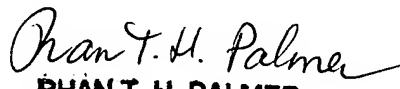
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHAN T.H. PALMER whose telephone number is (571) 272-2354. The examiner can normally be reached on Monday to Friday.

Art Unit: 2874

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RODNEY B. BOVERNICK can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PTHP  
07/08/2005

  
PHAN T. H. PALMER  
PRIMARY EXAMINER